

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE) MDL No. 1456
LITIGATION) Civil Action No. 01-12257-PBS

)
THIS DOCUMENT RELATES TO:) Judge Patti B. Saris
ALL CLASS ACTIONS)
)
)
[FILED UNDER SEAL PURSUANT TO
COURT ORDER]
)
)
[REDACTED VERSION]

**DECLARATION OF ERIC P. CHRISTOFFERSON TRANSMITTING DOCUMENTS
RELIED UPON IN SCHERING-PLOUGH CORPORATION'S AND WARRICK
PHARMACEUTICALS CORPORATION'S MOTION FOR SUMMARY JUDGMENT**

I, ERIC P. CHRISTOFFERSON, hereby declare:

1. I am a member of the bar of the Commonwealth of Massachusetts and of this Court. I am an associate with Ropes & Gray LLP, and counsel to Defendants Schering-Plough Corporation (“Schering”) and Warrick Pharmaceuticals Corporation (“Warrick”). I submit this Declaration in support of Schering’s and Warrick’s Motion for Summary Judgment as to Class 2 Claims to place before the Court documents referenced in Schering’s and Warrick’s Concise Statement of Undisputed Material Facts Pursuant to Local Rule 56.1 as well as the Memorandum in Support of Schering’s and Warrick’s Motion for Summary Judgment as to Class 2 Claims.

2. Attached hereto as Exhibits 1 through 23 are true and correct copies of the following:

<u>EXHIBIT</u>	<u>TAB</u>
Declaration of Harvey J. Weintraub (Mar. 10, 2006) (filed under seal).	1
Excerpts from the transcript of the deposition of Harvey Weintraub (Aug. 25, 2005)	2

(filed under seal).

Excerpts from the transcript of the deposition of Jerome A. Sherman (July 7, 2005) (filed under seal).	3
Excerpts from the transcript of the deposition of Michael C. Walsh (July 5, 2005) (filed under seal).	4
Excerpts from the transcript of the deposition of Gary Bishop (July 27, 2005) (filed under seal).	5
Excerpts from the transcript of the deposition of Portia Edens (Aug. 9, 2005) (filed under seal).	6
Excerpts from HHS-OIG, <i>Update: Excessive Medicare Reimbursement for Albuterol</i> (OEI-03-03-00510 Jan. 2004).	7
Excerpts from HHS-OIG, <i>Medicare Reimbursement of Prescription Drugs</i> (OEI-03-00-00310 Jan. 2001).	8
Excerpts from HHS-OIG, <i>Suppliers' Acquisition Costs for Albuterol Sulfate</i> (OEI-03-94-00393 June 1996).	9
Excerpts from HHS-OIG, <i>Are Medicare Allowances for Albuterol Sulfate Reasonable?</i> (OEI-03-97-00292 Aug. 1998).	10
Excerpts from Government Accounting Office, <i>Medicare Payments for Covered Outpatient Drugs Exceed Providers' Cost</i> (GAO-01-1118 Sept. 2001).	11
Excerpts from HHS-OIG, <i>Medicare Reimbursement of Albuterol</i> (OEI-03-00-00311 June 2000).	12
Excerpts from Warrick Account Information Forms, produced at WAR004341, 16011, 16823 (filed under seal).	13
Excerpts from the transcript of the deposition of Debra Kane (June 15, 2004) (filed under seal).	14
Excerpts from the transcript of the deposition of Debra Kane (June 23, 2005) (filed under seal).	15
Excerpts from the transcript of the deposition of Peter Kamins (July 19, 2005) (filed under seal).	16
Excerpts from the transcript of the deposition of Mark David Flynn (July 29, 2005) (filed under seal).	17
Excerpts from the transcript of the deposition of James Butler (Aug. 11, 2005) (filed under seal).	18

under seal).

Excerpts from the transcript of the deposition of Brian Longstreet (Aug. 30, 2005) 19
(filed under seal).

HHS-OIG, *A Comparison of Albuterol Sulfate Prices* (OEI-03-94-00392 June 1996). 20

HHS-OIG, *Excessive Medicare Reimbursement for Albuterol* (OEI-03-01-00410 Mar. 21
2002).

Excerpts from the transcript of the deposition of Raymond Hartman (Mar. 1, 2006) 22
(filed under seal)

Excerpts from the transcript of the deposition of Meredith Rosenthal (Feb. 23, 2006) 23
(filed under seal)

3. Several of the exhibits attached hereto contain information that has been deemed confidential and highly confidential and are hereby filed under seal. Those exhibits are 1-6, 13-19, and 22-23.

I declare under penalty of perjury that the foregoing is true.

/s/ Eric P. Christofferson
Eric P. Christofferson

EXECUTED this 15th day of March, 2006 in Boston, Massachusetts.

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2006, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Eric P. Christofferson
Eric P. Christofferson